

NSC review completed

29 December 1975

MEMORANDUM FOR: The Director

SUBJECT : The 24 December 1975 "Vail Package"

General

Set forth below are my comments on the four main chapters of the "Vail Package" which Dick Lehman circulated on 24 December. It is indeed an improvement over earlier cuts, but it is still far from what I would want to submit to the President and the NSC as staff analysis to aid in decisions that may determine the shape -- hence, efficacy -- of American intelligence for the next quarter century.

It is thin and superficial in its treatment of many issues and ignores others which need to be considered. Chief among the latter is counterintelligence: its proper function, requirements, structure and ground rules. A study of intelligence which ignores this topic is in my view seriously deficient.

Also, in its address to organization and management questions, the study implicitly accepts the fiction that the NSC functions as a corporate, decision-making body (roughly analogous to the British cabinet). It does not, never has, and -- in our governmental system -- is never likely to. That Emperor, in short, has no clothes. A staff study for submission to the President on a subject as important to national survival in this terrorist and strife-ridden thermonuclear age as our national intelligence structure ought to be grounded in hard fact, not fiction.

Chapter I: Principles and Policy

One basic flaw in Chapter I's approach -- a distortion which permeates the entire study -- is its hierarchy of priorities. Set forth on page 1-2 are five goals suggested for Presidential consideration. The first of these, later described as "overriding" is that "Abuses should be eliminated."

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-- This statement reflects a bowing to political winds and currently fashionable mythology. For one thing, so long as intelligence services, and governments (including legislatures) are staffed by human beings, abuses are never going to be eliminated -- particularly if this term is used, as it is today, to encompass errors in judgment or, even more, actions and decisions which look different from the perspective of hindsight than they looked at the time they were taken. For another, actual abuses by the Intelligence Community (as opposed to judgmental errors or kooky suggestions discussed but never in fact implemented) have been remarkably rare. Abuses are not the real problem, and primary focus on them will inevitably skew everything else.

-- The right order of priority in the five stated goals is:

- (1) improvement in the quality of the intelligence product,
- (2) improvement in the Community's organization and management,
- (3) better protection of essential secrecy,
- (4) improved Congressional relations,
- (5) steps to minimize the likelihood of future abuses.

A second basic flaw is the shallowness of the analysis of the underlying problems which need to be addressed and, if possible, solved. The basic issues have little to do with any lack of adequate charters. They have far more to do with the kind of intelligence support our government will need in the last quarter of this century, what are the necessary organizational and operational conditions required to provide this support, and how -- or to what extent -- can these necessary conditions be squared with and/or fitted into our constitution, governmental system and political mores.

In discussing "The need for a charter" (pp I-5 ff.), a suggestion is made that some view the CIA and the Intelligence Community "as primarily policy making organizations." I regard this view as ill-conceived and fundamentally wrong. Intelligence can render its best support to policy decision-

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making by, and only by, being detached from it and independent of it. Intelligence officers who become policy advocates also become, inevitably, bad intelligence officers.

Throughout the discussion of the important DCI-Secretary of Defense relationship there is a confusion of some consequence: a DCI with an adequate staff over which he has effective control (e.g., a CIA) is not thereby "biased toward one institution." If he uses that staff properly and exerts effective control over it, he can be free of bias in favor of any given set of departmental equities, interests or objectives -- which is something quite different. Without adequate staff support under his control, the DCI will have no more real voice in the councils of state than did the now-abolished Science Advisor to the President.

Chapter II: Oversight and Restriction

Chapter II suffers throughout from the primary focus on abuses (noted above). It is also far too gingerly in its treatment (largely by evasion) of two gut issues, both of them political hot potatoes: counterintelligence and the proper limits to the role of the FBI.

It also ignores the fact that in this world of jet air travel, plus loyalties focussed on ideology, class, or even ethnic groups -- rather than on nations or governments -- the distinction between what is domestic and what is foreign gets hopelessly blurred in the field of intelligence, and even more so in that of counterintelligence.

In its discussion of Congressional matters (II-17 ff), it waffles on the thorny issues of committee jurisdiction and fudges these issues badly in opting for separate committees in each house.

Congress, with reason, would be most restive about and suspicious of any central dissemination point such as that proposed on II-25.

Overall, the restrictions package and arrangements proposed in this chapter, while of short-term political utility as cosmetic gestures, would hamstring the Intelligence Community's ability to function, i.e., to produce quality intelligence in support of national decisions.

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Chapter III: Organization and Management

Re page III-2, the DCI's primacy was implicitly established by the National Security Act of 1947, it was amplified and reaffirmed by the 5 November 1971 memorandum.

Also on III-2, the DCI's "chairmanship" of a two-man Excom is illusory when the other member (as now happens) feels free to ignore DCI rulings he does not like or promptly appeal them to the Secretary of Defense.

On III-4, you get a prime example of the paper's penchant for confusing the NSC -- which never functions as a corporate body -- with the NSC Staff, an appendage of the Executive Office of the President and something quite different.

Re III-5, there are excellent arguments (I think persuasive ones) for divesting the DCI of day-to-day responsibility for managing the CIA -- i.e., not having the DCI also be the Director of CIA -- but this is not to say that the CIA should necessarily be independent of the DCI. If the CIA is not structured to serve as the DCI's household cavalry, the DCI will have no ability to be much more than a decorative appendage, perhaps cosmetically useful but of minimal real function -- unless the DCI is given a staff so large that it itself becomes, in effect, another, duplicatory agency.

Conversely, the shortest, surest road to politicizing intelligence lies in the suggestion that the DCI be put in the White House and made part of any given President's administration "team."

Giving OMB a budgetary role in intelligence that involves de facto command jurisdiction and authority would be a disaster.

Re III-9, the notion that competition in collection is not useful is not always true.

Re III-12, it is chasing moonbeams to suggest that the DCI could "coordinate" National Intelligence Estimates in any meaningful way if he was locked into a system which required him to accept departmental drafts or inputs which he had no machinery for scrutinizing or challenging.

III-12 also confuses independence and objectivity (in the sense of lack of bias). CIA's analysts and estimators, being human, have human frailties -- including, at times,

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mind-sets or preconceptions which they may not always recognize or may be reluctant to acknowledge, and which others could term "biases." CIA's analysts and estimators, however, are -- not just "asserted" to be, but are -- independent of departmental control. Under present arrangements, this essential independence is protected. It would, of course, be lost under a DCI who let himself be dominated by a given NSC member -- e.g., a Secretary of State, of Defense, or an Assistant for National Security Affairs. To say that, however, is only to state the truism that no set of institutional arrangements is proof against human frailty. An arrangement where the DCI, or the Intelligence Community as a whole, is not formally subordinate to the head of any cabinet department provides the best feasible protection for the essential independence of national intelligence judgments.

Re III-14, argument 3 (at the top of the page) is perhaps the strongest, least challengeable one for not setting up a separate agency with nothing to do but covert action.

None of the option statements gives the option presented as one of the two recommended alternatives of the Taylor Group Report: A DCI who is not the head of CIA but through whom the latter reports to the NSC. I happen to think this is the best option of all.

I know I stand in an outvoted, overruled minority; but I do not think the theoretically appealing concept of having a "second deputy" to whom day-to-day management of the CIA is delegated is ever likely to work in practice. Given the nature of the human animal, the odds are very high (say 8 in 10) that any DCI -- especially a strong-minded one with a keen sense of duty -- who is vested by statute with responsibility for running the CIA will in fact try to manage it. Exhibit A in my brief is James R. Schlesinger. He wrote the Presidential instruction directing the DCI to turn the day-to-day management of CIA over to the DDCI. When the author of that directive became DCI, however, he promptly ignored it. Raborn let Helms manage the CIA but only because Raborn was unique (and his is hardly a happy precedent). Try to envisage a Bedell Smith, an Allen Dulles, a John McCone, a Richard Helms, a James Schlesinger -- or a William Colby -- letting someone else actually run an agency for whose day-to-day performance he remained responsible and accountable under law. The track record of history runs six to one against the practical plausibility or workability of this scheme.

Chapter IV: Secrecy

This whole section needs re-working for several reasons. Chief among them is a bad misunderstanding of the concept of compartmentation: what it involves, why it is necessary, and how it can and should work.

George A. Carver, Jr.
Deputy for National Intelligence Officers

cc: General Walters

Mr. Lehman
Mr. Taylor
Mr. Breckenridge

O/D/DCI/NIO:GACarver/mee

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24 December 1975

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25X1 Herewith the "Vail package". Someone has heavily reworked (and substantially improved) it since saw it. The organization section is still pretty weak and there are a number of formulations we won't like, but in general it's a respectable job of packaging a lot of complicated and un-packageable issues for the President. Section I in particular shows the results of some of the work done in this building.

No action has been requested but I suspect that by Monday we will be asked to prepare the DCI (and perhaps Amb. Bush?) for the NSC Marsh proposes. Thus getting appropriate passages reviewed by your staffs between now and then might not be a bad idea.

On which thought, Merry Christmas!

RICHARD LEHMAN

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